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INDIANA UTILITY REGULATORY COMMISSION
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FILED

IN THE MATTER OF THE VERIFIED PETITION)
OF MCI WORLDCOM COMMUNICATIONS,)
INC., F/K/A METROPOLITAN FIBER SYSTEMS)
OF INDIANAPOLIS, INC., AND MCIMETRO)
ACCESS TRANSMISSION SERVICES, LLC FOR)
PROTECTION OF CERTAIN INFORMATION AS)
TRADE SECRET AND CONFIDENTIAL)
PURSUANT TO IC 5-14-3-1, ET SEQ.)

MAY 0 5 2004

INDIANA UTILITY
REGULATORY COMMISSION
CAUSE NO. 42609

You are hereby notified that on this date the Presiding Officer makes the following Entry in this Cause:

On March 31, 2004, MCI WorldCom Communications, Inc., f/k/a Metropolitan Fiber Systems of Indianapolis, Inc., and MCImetro Access Transmission Services, LLC (collectively, "MCI Operating Companies") filed a *Verified Petition of the MCI Operating Companies* ("Petition") with the Indiana Utility Regulatory Commission ("Commission"), seeking confidential treatment of the MCI Operating Companies' responses to Sections II, III and IV of the Commission-issued *Local Competition Survey As Of 12/31/03* ("Survey"). Sections II, III and IV of the Survey ask for the number of facilities based, resold, UNE-P, UNE-Loop, and special access lines, for both residential and nonresidential customers in three geographic regions of the State (north, central and south), provided both to end users and to other carriers, as well as the totals thereof. The Survey responses that are the subject of the MCI Operating Companies' confidentiality claim are applicable to the twelve-month period ending December 31, 2003, and were due to be submitted to the Commission by March 31, 2004.

In addition, the MCI Operating Companies' Petition asks that the requested confidentiality determination also be applicable to each and every filing made by the MCI Operating Companies with respect to the Commission's 2004 Local Competition Survey.

The MCI Operating Companies seek this confidential protection pursuant to the Commission's procedural rule found at 170 IAC 1-1.1-4, and rely on the trade secret exception to public disclosure of public records found at Ind. Code 5-14-3-4 and 24-2-3-2 as the basis for their confidentiality claim.

Accompanying the Petition was the *Affidavit of Joan Campion* ("Affidavit"). Joan Campion is Vice President of Public Policy – Northern Region for WorldCom, Inc.,

and its subsidiaries and affiliates. In support of the claim that responses to Sections II, III and IV of the Survey contain trade secret information, the Affidavit states:

. . . the number of customers served by MCI in Indiana, the distinction between residential and business customers and the further distinction between regions of the state is not readily ascertainable. Further, the fact that this information is not readily ascertainable derives independent economic value for MCI. The Company's marketing focus, effectiveness and market penetration all are of strategic value to the Company. If revealed, the Company would lose an edge in the marketplace, because MCI's competitors could use this information to their advantage to strategically target their efforts to win away MCI customers by focusing on particular areas and particular customer types where they believe inroads are most easily made.

With respect to maintaining confidentiality of the responsive information at issue, the Affidavit states:

Customer information of this type is not publicly disseminated. MCI also is careful to guard this information internally as well. Its disclosure is limited to those employees whose job responsibilities entail compiling the data, preparing regulatory filings incorporating the data, as required, protecting MCI's rights with regard to preventing unwarranted dissemination of this information, or crafting and implementing business and marketing plans dependent on this information. Those employees who are not directly involved with these functions are not given access to this information. In addition, MCI employees are required to sign a confidentiality agreement as a condition of employment, and the WorldCom Policies and Procedures Handbook mandates employee confidentiality and nondisclosure with respect to MCI's business transactions, corporate information and internal communications, and other such sensitive business information, including the categories of information that are the subject of this request.

The Presiding Officer, having reviewed the Petition and its accompanying Affidavit, finds that there is a sufficient basis for a preliminary determination of confidentiality with respect to the designated Survey responses that are identified above. The Affidavit contains a sufficient description of the nature of the information for which confidential treatment is sought. The Affidavit presents factual information sufficient to show that the designated Survey responses, due to be submitted to the Commission by March 31, 2004, contain information that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. The Affidavit also presents factual information sufficient to show that the MCI Operating Companies have made efforts that are reasonable under the circumstances to maintain secrecy of the information for which confidential treatment is sought.

It is noted, however, that this Petition is very broad in that it seeks confidential protection of each and every response with respect to lines in service. While possible, it is unlikely that the MCI Operating Companies are providing facilities based, resold, UNE-P, UNE-Loop, and special access lines, for both residential and nonresidential customers in each of the three geographic regions of the State (north, central and south), and that they are providing all such services to both end users and to other carriers in each of these geographic regions. On page nine of its January 28, 2004 Order in Cause Nos. 42537, 42540, 42542, 42544 and 42545, the Commission found that "a blank or zero response in the 2003 Survey is not a response subject to trade secret protection." In fact, the Order in Cause No. 42537 approved confidential treatment with respect to the MCI Operating Companies' responses in Sections II, III and IV of the 2003 Local Competition Survey for the nine-month period ending September 30, 2003. Therefore, this preliminary determination of confidentiality does not apply to any responses in Sections II, III and IV of the Survey that are blank or zero.

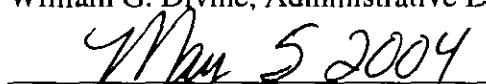
The MCI Operating Companies' request that this confidentiality determination be also applicable to their responses to the Commission's 2004 Local Competition Survey is denied. The Commission's 2004 Local Competition Survey has not yet been produced. The 2004 Local Competition Survey may be in a different format and may request different information from that in the 2003 Survey. It would be inappropriate to pre-approve confidential treatment of responses to a public record that does not yet exist, and the form and content of which are not yet finalized. In addition, with a significant passage of time between survey responses, the factual information that the MCI Operating Companies will need to determine and submit in an effort to satisfy the elements of trade secret protection for the 2004 Survey responses may not necessarily be the same as the factual information that existed for the 2003 Survey responses.


Accordingly, within seven (7) days of the date of this Entry, the MCI Operating Companies should hand deliver to Commission Principal Telecommunications Analyst Mark Bragdon, in a sealed envelop that is clearly marked "confidential" and with the Cause Number noted thereon, their completed responses to Sections II, III and IV of the Survey.

This responsive information should be handled and maintained as confidential, in accordance with Ind. Code 5-14-3.

IT IS SO ORDERED.


William G. Divine, Administrative Law Judge


Date


Nancy E. Manley, Secretary to the Commission